



# City of Johnson City Tennessee

601 East Main Street • P.O. Box 2150 • Johnson City, TN 37605 • (423) 434-6000

## **BOARD OF ZONING APPEALS CITY OF JOHNSON CITY, TENNESSEE**

Minutes of the Meeting of  
July 10, 2012

The Board of Zoning Appeals held its regular meeting on July 10<sup>th</sup> at 9:00 a.m. in the City Commission Chambers of the Municipal and Safety Building.

### **Members Present**

Steve Meroney, Vice-Chairman  
Jeff Benedict  
Tim O'Neil

### **Staff Present**

Steve Neilson, Development Coordinator  
Jessica Harmon, Planner

Mr. Meroney called the meeting to order.

The Minutes of the June 8, 2012 meeting were considered for approval.

**MOTION: Benedict To approve the minutes of the June 8, 2012 meeting.**

**SECOND: O'Neil**

**VOTE: Approved 3-0.**

### **Case No. 760-1**

Mr. Neilson indicated that this was a variance request to the side and rear setback for an accessory structure from 7 ½ feet to 2 feet on the side and one foot in the rear of the property located at 705 Milligan Highway. The property is located within an R-2, Low Density Residential District. The petitioner indicated that he inherited a boat and he wanted to keep it out of the weather under a carport in the backyard. He didn't want to leave the boat in the front yard where the neighbors might consider it unattractive. Mr. Neilson also indicated that he had received a letter from the property owner in the rear supporting the request. However, this was a self-created hardship which did not meet the requirements for a variance.

The petitioner Mr. Zdonowicz answered questions and spoke in favor of the request.

**MOTION: O'Neil To approve the variance request at 705 Milligan Highway.**

**SECOND: Meroney**

**VOTE: Approved 3-0.**

### **Case No. 760-2**

Mr. Neilson indicated that this was a request at 2613 Gilmer for variances to the front yard, side yard, rear yard and front facing garage setback requirements. The property is zoned R-3, Medium Density Residential District. He stated that the existing lot of record was only 2,700 square in area and that was a house on the property which was demolished 2010.

The petitioner is requesting to build a smaller house that would be more conforming than the one that was removed in 2010. The request is in keeping with the other homes in the area which were all on substandard lots and done of the houses met the setback requirements.

Mr. Neilson stated that because was a very small lot of record and that denying the request could be considered a taking, he recommend approval of the variance requests.

Ms. Gruhler spoke in favor of her request and asked to amend her request to the rear yard setback from 14 feet to 8 feet.

Mr. Benedict stated that because of the exceptionally small size of lot and because the property backed up to a railroad he could support this request. He then moved to approve each of the variance requests including the reduction of the rear yard setback to 8 feet.

**MOTION: Benedict To approve each of the variance requests including the reduction of the rear yard setback to 8 feet.**

**SECOND: O'Neil**

**VOTE: Approved 3-0.**

### **Case No. 760-3**

Mr. Neilson indicated that this was a request for a variance to the side yard setback from 8 feet to 2 feet for property located at 1602 E. Myrtle Street for the purpose of getting approval for a roof which has already been constructed. He stated that approximately 30 days again, staff received a complaint that a roof had been built over an existing deck without a permit. After a site inspection, it was found that not only did the petitioner not have a permit, but the roof encroached to within 2 feet of the side property line.

In 1999, the applicant received a building permit to place a modular building on the property. At that time, the Certificate of Occupancy was held up during final inspection after it was discovered that a deck was constructed without approval, two feet from the side property line. In May 1999, the applicant went before the Board of Zoning Appeals and received a variance for the deck as well as the adjoining neighbor who received approval to build a deck two feet from their adjoining property line.

Mr. Neilson stated that he has received calls from the neighbors who are opposed to the request. He stated that the request did not meet the conditions for a variance and that the applicant has been before the Board in the past for a variance and knew what the procedure was and built without a permit. He stated that the fact that the roof was already there should not weigh in the Board's decision. This would amount to asking for forgiveness after the fact. The request does not meet the requirements for a variance, they have full use of the property, there is nothing unique about the property and this was a self-created hardship. He then recommended denial of this request.

Ms. Brady spoke in favor of this request. She stated that she put roof up to provide shade to take some of the heat off of the house. The roof has really shaded that part of the house and has become energy efficient helping keeping the electric bills down.

Ms. Bowman of 1600 E. Myrtle Avenue was there in opposition of this request.

Mr. Meroney stated that in the past the Board has been lenient and that he had problems with this request because the applicant knew she needed a building permit and knew she needed a variance because she had been before this Board before.

Mr. Benedict stated that since the roof was built without a building permit and did not conform, the Board should deny this request. If this had been the first time he could be more understanding, but since it is not he could not support it.

**MOTION: Benedict To deny this variance request.**

**SECOND: Meroney**

**VOTE: Approved 3-0.**

**Case No. 760-4**

Mr. Neilson indicated that this was a request to reapprove a special exception to allow sidewalk dining at 300 E. Main Street for Main Street Pizza. The property is located in the B-2, Central Business District.. He indicated that the petitioner met the requirements for sidewalk dining then recommended approval of this request. The certificate of insurance had been approved by Joy Baker. Staff recommended approval of this request.

**MOTION: Benedict To approve the special exception request for sidewalk dining at 300 E. Main Street.**

**SECOND: O'Neil**

**VOTE: Approved 3-0.**

## **Case No. 760-5**

Mr. Neilson indicated that this was a variance request to reduce the minimum front yard setback from fifty feet to forty feet allow the petitioner to construct a single family residence. He indicated that the petitioner was not able to attend the meeting, but he provided a letter expressing his request for a variance.

Mr. Neilson stated that there are no existing conditions on this property that are unique to the parcel. The surrounding properties are all on the same uphill slope as the petitioners and also meet the required minimum setbacks. There was nothing unique about this property, the topography is not significant enough to justify this request. He also stated that staff had received two calls in opposition of this request. He then recommended that the request be denied.

Mr. William Teilhet, representing his brother spoke in favor of this request. He stated that the petitioner's request would allow petitioner to maximize the minimal flat area on his property and allow for a larger back yard for his children to play. He indicated that other homes in the area have received variances, but he agreed that most of the homes along the street do meet the setback.

Mr. Meroney expressed that he would have liked a drawing showing the location of the house on the property so that he had a better idea of what he was voting on.

Mr. Teilhet indicated if that was important he would be glad to provide a drawing showing the proposed location. They were also willing to look at the setbacks to find something the Board felt was more reasonable.

Mr. Benedict indicated that if he had to vote today he would probably vote against it. However, if he asked to defer this request a month and get with the neighbors, try to find a compromise and submit a plan.

**MOTION: Benedict                      To defer this item until next month's meeting to allow the petitioner time to meet with the neighbors and provide a site plan.**

**SECOND: O'Neil**

**VOTE: Approved 3-0.**

## **Election of Officers**

Since there were only three members, the Board deferred election until next month. Mr. Benedict requested that staff send a letter to the Board member reminding them of the Board election and the need to be present.

There being no further business, the meeting adjourned at 9:40 a.m.

**APPROVED:**

---

Dwight Harrell, Chairman  
Board of Zoning Appeals